

REMARKS

Claims 1 – 19 are in the case. Claims 1 – 17 are presented for reconsideration and further examination in view of the foregoing amendments and following remarks, and newly submitted Claims 18 and 19 are presented for examination.

In the outstanding Office Action, the Examiner rejected Claims 1 – 3 and 12 - 17 under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being obvious over, U.S. Patent No. 6,273,393 to McCoy (hereafter referred to as “McCoy”); rejected Claim 11 under 35 U.S.C. 103(a) as being unpatentable over McCoy; and, indicated that Claims 4 – 10 would be allowable if rewritten in independent form.

By this Response, Applicant amends Claim 1, introduces dependent Claim 18 for a first examination, traverses the above rejections, and submits newly presented independent Claim 19, which is allowable Claim 4 written in independent form.

It is respectfully submitted that the amendments to Claim 1 are presented for clarification only, and are not intended to limit the scope of the claim. Accordingly, applicant submits that no new matter within the meaning of 35 U.S.C. §132 has been introduced to this application. Support for the amendments to Claim 1 may be found in the specification as originally filed (see, for example, page 1 lines 4 – 9), and in the figures as originally filed, including figure 5.0, which shows both a platform surface (21, 22) and side form surfaces (13) on the platform surface, where both the platform surface and side form surfaces define separate surfaces for the molded panel. Support for newly presented Claim 18 may be found in the specification as originally filed (see page 6, lines 16 and 17). Support for Claim 19 is found in original Claims 1, 2 and 4.

Rejections under 35 U.S.C. 102(b)

The Examiner rejected Claims 1 – 3 and 12 – 17 under 35 U.S.C. 102(b) as being anticipated by McCoy.

Response

Reconsideration and withdrawal of the rejections are respectfully requested.

For a reference to anticipate an invention, all of the elements of that invention must be present in the reference. The test for anticipation under section 102 is whether each and every element as set forth in the claim is found, either expressly or inherently, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131. The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP §2131.

Applicant submits that McCoy does not disclose, teach, or suggest all of the features of independent Claim 1, and thus of Claims 2, 3, and 12 – 17 dependent therefrom.

Independent Claim 1, amended, recites a formwork system for use in casting prefabricated panels. The system includes, *inter alia*, “a support structure including a platform ... having a platform surface defining a first panel surface of a panel to be cast” and “a plurality of side forms being positionable on the platform surface, each side form having a side form surface defining an additional panel surface of the panel to be cast.” (Present application, Claim 1).

McCoy is drawn to a concrete form support bracket and assembly which can be used to pour concrete bridge decks or building floors. In McCoy, support assemblies descend from longitudinal

bridge beams. (See McCoy, Fig. 5) Specifically, a bolt 18 hangs a bracket 54 below a beam 47 (McCoy, col. 3, lines 66 – 67). The brackets in turn support ledgers 32, on top of which a plywood deck 16 is placed. The concrete bridge deck is poured over top of this plywood deck (McCoy, col. 4, lines 7 – 10).

McCoy fails to disclose, teach, or suggest a support structure having “*a platform surface defining a first panel surface of a panel to be cast*” and “*a plurality of side forms being positionable on the platform surface, each side form having a side form surface defining an additional panel surface of the panel to be cast.*” (Present application, Claim 1, emphasis added).

Amended Claim 1 teaches side forms that are positionable on the same platform surface that defines a first surface of the panel to be cast. Each side form defines an additional panel surface of the panel to be cast. In contrast, McCoy’s ledgers (12, 32) are on the *opposite side* of the deck platform (16) from the (top) surface on which the concrete is poured. (See McCoy, Fig. 1). McCoy is drawn to a system for pouring concrete bridge decks and floors. Accordingly, McCoy is concerned only with defining a single surface (the floor surface or road surface), and McCoy’s ledgers (12, 32) do not define any *additional panel surface* beyond the surface defined by the platform (16). The presently claimed inventive subject matter describes a system for casting prefabricated wall or floor *panels* (see amended Claim 1) which accordingly defines not only one panel surface defined by the platform, but also additional panel surfaces defined by the side forms.

For this reason, Applicant submits that McCoy fails to anticipate the present inventive subject matter. Accordingly, Applicant requests that the examiner reconsider and withdraw the rejections under 35 U.S.C. 102(b) of independent Claim 1, and of Claims 2, 3, and 12 – 17 dependent therefrom.

Rejections under 35 U.S.C. 103(a)

The Examiner rejected Claims 1 – 3 under 35 U.S.C. 103(a) as being obvious over McCoy; and, rejected Claim 11 under 35 U.S.C. 103(a) as being unpatentable over McCoy.

Response

Reconsideration and withdrawal of the rejections are respectfully requested.

To establish a *prima facie* case of obviousness, the Examiner must establish: (1) some suggestion or motivation to modify the references exists; (2) a reasonable expectation of success; and (3) the prior art references teach or suggest all of the claim limitations. *Amgen, Inc. v. Chugai Pharm. Co.*, 18 USPQ2d 1016, 1023 (Fed. Cir. 1991); *In re Fine*, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988); *In re Wilson*, 165 USPQ 494, 496 (CCPA 1970).

Applicant submits that McCoy does not disclose, teach, or suggest all of the features of independent Claim 1, and thus of Claims 2, 3, and 11 dependent therefrom.

As set forth above, McCoy fails to disclose, teach, or suggest a support structure having “a platform surface defining a first panel surface of a panel to be cast” and “a plurality of side forms being positionable on the platform surface, each side form having a side form surface defining an additional panel surface of the panel to be cast.” (Present application, Claim 1, emphasis added). The arguments above with respect to McCoy are incorporated in this section by reference.

As McCoy fails to disclose, teach, or suggest all of the features of independent Claim 1, Applicant submits that the Examiner has failed to make a *prima facie* case of obviousness. Accordingly, Applicant requests that the examiner reconsider and withdraw the rejections under 35 U.S.C. 103(a) of independent Claim 1, and of Claims 2, 3, and 11 dependent therefrom.

Allowable subject matter

The Examiner objected to Claims 4 – 10 as dependent from rejected base Claim 1, but indicated that Claims 4 – 10 would be allowable if rewritten in independent form.

Response

Claim 19 is simply allowable Claim 4 written in independent form, and thus is in condition for allowance. As Applicant submits that Claim 1 is now in condition for allowance from the reasons stated above, Applicant requests that the Examiner reconsider and withdraw the objections to Claims 4 – 10.

Newly Presented Claim

By this response and amendment, Applicant presents Claim 18 for consideration. Claim 18 ultimately depends from Claim 1, which Applicant submits is in condition for allowance.

Also, Claim 18 depends from Claim 5, and recites that “the formwork system includes a plurality of sets of side forms each set varying in length to permit casting of panels of varying size.” Applicant submits that the combined features of Claims 5 and 18 are not present in McCoy.

Accordingly, allowance of this claim is respectfully requested.

CONCLUSION

In light of the foregoing, Applicant submits that the application is now in condition for allowance. If the Examiner believes the application is not in condition for allowance, Applicant

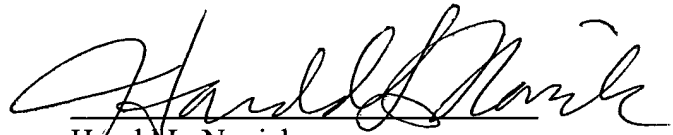
Appln No. 10/671,428
Amdt dtd Aug. 22, 2006
Reply O.A. of May 22, 2006

Attorney Docket No. 82533

respectfully requests that the Examiner contact the undersigned attorney if it is believed that such contact will expedite the prosecution of the application.

In the event this paper is not timely filed, Applicant petitions for an appropriate extension of time. Please charge any fee deficiency or credit any overpayment to Deposit Account No. 14-0112.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Harold L. Novick", written over a horizontal line.

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Date: August 22, 2006
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